



FR-4915-01-P

SURFACE TRANSPORTATION BOARD

49 CFR Parts 1201, 1242

[Docket No. EP 681]

Class I Railroad Accounting and Financial Reporting—Transportation of Hazardous Materials

AGENCY: Surface Transportation Board.

ACTION: Advance notice of proposed rulemaking, withdrawal.

SUMMARY: The Surface Transportation Board is withdrawing the advance notice of proposed rulemaking and discontinuing the EP 681 rulemaking proceeding which sought comment on whether and how it should update its accounting and financial reporting for Class I rail carriers to better capture the operating costs of transporting hazardous materials.

DATES: The advance notice of proposed rulemaking published on January 5, 2009 (74 FR 248) is withdrawn and the rulemaking proceeding is discontinued on September 22, 2016.

FOR FURTHER INFORMATION CONTACT: Allison Davis at (202) 245-0378.

Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.

SUPPLEMENTAL INFORMATION: On January 5, 2009, in the above titled docket, the Board issued an Advance Notice of Proposed Rulemaking (ANPR) seeking public comment on whether and how it should update its accounting and financial reporting for Class I rail carriers and refine its Uniform Railroad Costing System (URCS) to better

capture the operating costs of transporting hazardous materials. For the reasons stated below, we will discontinue this proceeding.

The Board uses URCS to determine a carrier's variable costs in a variety of regulatory proceedings. The URCS model determines, for each Class I railroad, what portion of each category of costs shown in that carrier's Annual Report to the Board (STB Form R-1) represents its system-average variable cost for that year, expressed as a unit cost. In the ANPR, the Board noted that there may be unique operating costs associated with the transportation of hazardous materials that URCS does not attribute to those movements. As an example, the Board suggested that the transportation of hazardous materials may require carriers to pay high insurance premiums, which would be spread across all traffic of the railroad rather than being attributed specifically to the transportation of the hazardous materials. Additionally, the Board noted that the Uniform System of Accounts (USOA)—the accounting standards which Class I carriers must use to prepare the financial statements that they submit to the Board—does not include a separate classification for hazardous material operations that would allow for an accounting of the assets used and costs incurred in providing such service.

The Board therefore sought comment on “whether and how it should improve its informational tools to better identify and attribute the costs of hazardous-material transportation movements,” including any revisions to the USOA and improvements to the analytic capabilities of URCS. ANPR, slip op. at 2. The Board specifically sought comment on several items, including how hazardous material operations and expenses could be reported in a subschedule of the annual R-1 reports, a specific definition of what should constitute a movement of hazardous material for this purpose, whether that

definition should be limited to movements of “Toxic Inhalation Hazards” or not, and the best operating statistic (such as car-miles, revenue ton-miles, or revenue tons of hazardous materials movements) for URCS to use to allocate specified hazardous material costs to individual movements. In response to the ANPR, the Board received comments from multiple stakeholders, as discussed below.¹

DOT agrees that “additional data should be reported to [USOA] in order to identify and quantify these [hazardous material] costs, and that URCS should attribute these costs to hazmat traffic alone rather than to the entirety of a carrier’s business.” (DOT Comment 2.)

AAR, BNSF, CP, and UP generally agree with the Board’s stated goals in this proceeding. (AAR Comment 2; BNSF Comment 2, CP Comment 7, 9; UP Comment 7.) However, they also argue that changes to URCS would not sufficiently address the railroad industry’s concerns with transporting hazardous material. BNSF and NSR underscore the risk of liability from a catastrophic accident (BNSF Comment 2; NSR Comment 2-3), while UP stresses the importance of fairly apportioning risk across all participants in the supply chain (UP Comment 2). The railroads argue that, even if the Board were to change URCS, they should also be allowed to present the unique costs of transporting hazardous materials in rate proceedings involving hazardous materials. (See AAR Comment 2; CP Comment 3-4, 9; NSR Comment 3; UP Comment 8-9.)

¹ The Board received comments from: the American Chemistry Council, the Chlorine Institute, The Fertilizer Institute, and the Edison Electric Institute (collectively, ACC); Arkansas Electric Cooperative Corporation (AECC); the Association of American Railroads (AAR); BNSF Railway Company (BNSF); Canadian Pacific Railway Company (CP); Diversified CPC International, Inc. (Diversified CPC); Norfolk Southern Railway Company (NSR); Union Pacific Railroad Company (UP); and the U.S. Department of Transportation (DOT).

ACC, AECC, and Diversified CPC argue that the Board should not limit a review of URCS by any single issue or commodity, but should instead conduct a broader review of URCS. (ACC Comment 2; AECC Comment 2; Diversified CPC Comment 8.) ACC also argues that the proposed rulemaking would be arbitrary and ill-advised because, while some railroads have faced one-time costs from settlements of claims, the railroads have reported few ongoing, quantifiable costs relating solely to hazardous materials transportation. (ACC Comment 2.)

While the Board appreciates the input it received from the commenters in this proceeding, it has decided to close this docket. Although the Board is not foreclosing the possibility of addressing this issue in the future, even if it were to do so, it would be initiated as a new proceeding. Thus, we will not move forward with this proceeding at this time and will discontinue this docket in the interest of administrative efficiency.

Decided: September 20, 2016.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.

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Clearance Clerk

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